

ILHIE AUTHORITY BOARD MEETING Committee of the Whole

April 8, 2013
Chicago, IL
1:00 PM



- Legislative Update
- Preview of Board Meeting



Electronic exchange of patient mental health records

An overview of HIE and HB1017

ILHIE Authority Committee of the Whole
April 8, 2013

Mark Chudzinski
General Counsel OHIT

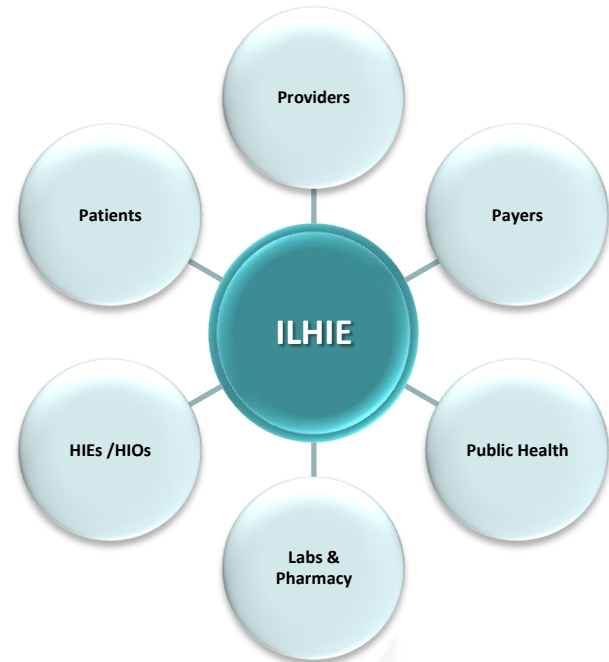


- I. Background
 - Recap of HIE; Methods of Electronic Exchange; Legal & Policy Barriers to HIE; RHIO Stakeholder Input - 2012
- II. Major Barrier to HIE: MHDDCA
- III. HB1017 – amends MHDDCA
 - a. Overview
 - b. Endorsing Organizations
 - c. Legislative Sponsors
 - d. HIE exception
 - e. Patient “Opt-out” Challenges
 - f. Amended “Opt-out” requirements
 - g. ILHIE Authority Rulemaking
 - h. Opposing Organizations
- IV. Regional HIE Concerns
- V. Next Steps



Recap of Health Information Exchange

- **Goal:**
 - facilitate electronic flow of patient health records
 - ILHIE Act (20 ILCS 3860/10): “to promote and facilitate the sharing of health information among health care providers within Illinois and in other states”
- **Benefits:**
 - Improve patient health care
 - Facilitate population health
 - Control healthcare costs



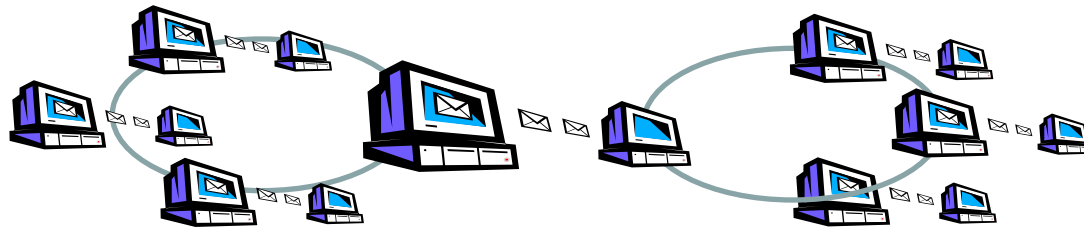
Methods of Electronic Exchange (simplified; deployed in IL)

1. Direct/push/uni-directional – point to point transmission from data custodian to specific data recipient



Methods of Electronic Exchange (simplified; deployed in IL)

2. Real-time/pull/query-response/bi-directional – data recipient requests data from HIE which provides data either deposited by data custodian in HIE repository (central storage model) or retrieved by HIE from data custodian's storage (federated storage model)



- OHIT tasked with identifying barriers
 - Assisted in analysis by external volunteer attorneys (ILHIE Legal Task Force), organized in 10 workgroups
 - Benefited from stakeholder engagement through Behavioral Health Integration Project (BHIP) and other initiatives
- ILHIE Authority Data Security & Privacy Committee tasked with recommending privacy and security policies for operation of state-level HIE (ILHIE)
 - Benefited from stakeholder engagement through public hearings and outreach (2012), culminating in Report adopted by Authority Board (9/19/2012)

RHIO stakeholder input - 2012 (1)

- ILHIE Board Committee of the Whole meetings: Jan. 10, Jan. 24, Feb. 15
- RHIO Workgroup formed as Board Committee Feb. 28
- RHIO Workgroup meetings: April 11, May 31
- RHIO Workgroup member engagement in OHIT/Authority response to federal HHS/ONC “guidance” on privacy and security (PIN-003) [May 8] and NwHIN governance [June 26]

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RHIO stakeholder input - 2012 (2)

- RHIO Workgroup member engagement in work plan of ILHIE Authority's Data Security & Privacy Committee (DSPC) [May – July]
- Participation in DSPC proceedings:
 - Metro Chicago Mrs. Marilyn Lamar March 29;
July 17
 - Central Illinois Dr. David Trachtenbarg March 29;
July 27
 - Central Illinois Mr. David Miller July 17
 - Central Illinois Mr. Ed Murphy July 27
 - LincolnLand/IHEP Mr. Steve Lawrence
July 17
 - LincolnLand Dr. David B. Graham July 27
 - IHEP Dr. Tom Mikkelsen July 27

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RHIO stakeholder input - 2012 (3)

- Participation in Authority Board proceedings:
 - RHIO Workgroup Mrs. Terry Jacobsen June 6, 2012
 - Metro Chicago Mr. Chuck Cox Sept. 19, 2012
Jan. 23, 2013
 - Metro Chicago Mr. Tom Crawford Nov. 14, 2012
 - Central Illinois Ms. Joy Duling Sept. 19, 2012
Nov. 14, 2012
Jan. 23, 2013
 - Northern Illinois Mr. Roger Holloway Sept. 19, 2012
Nov. 14, 2012
Jan. 23, 2013
 - LincolnLand/IHEP Ms. Crystal VanDeventer Nov. 14, 2012
- Direct discussions with Mr. Raul Recarey, Executive Director

JULY 2012				
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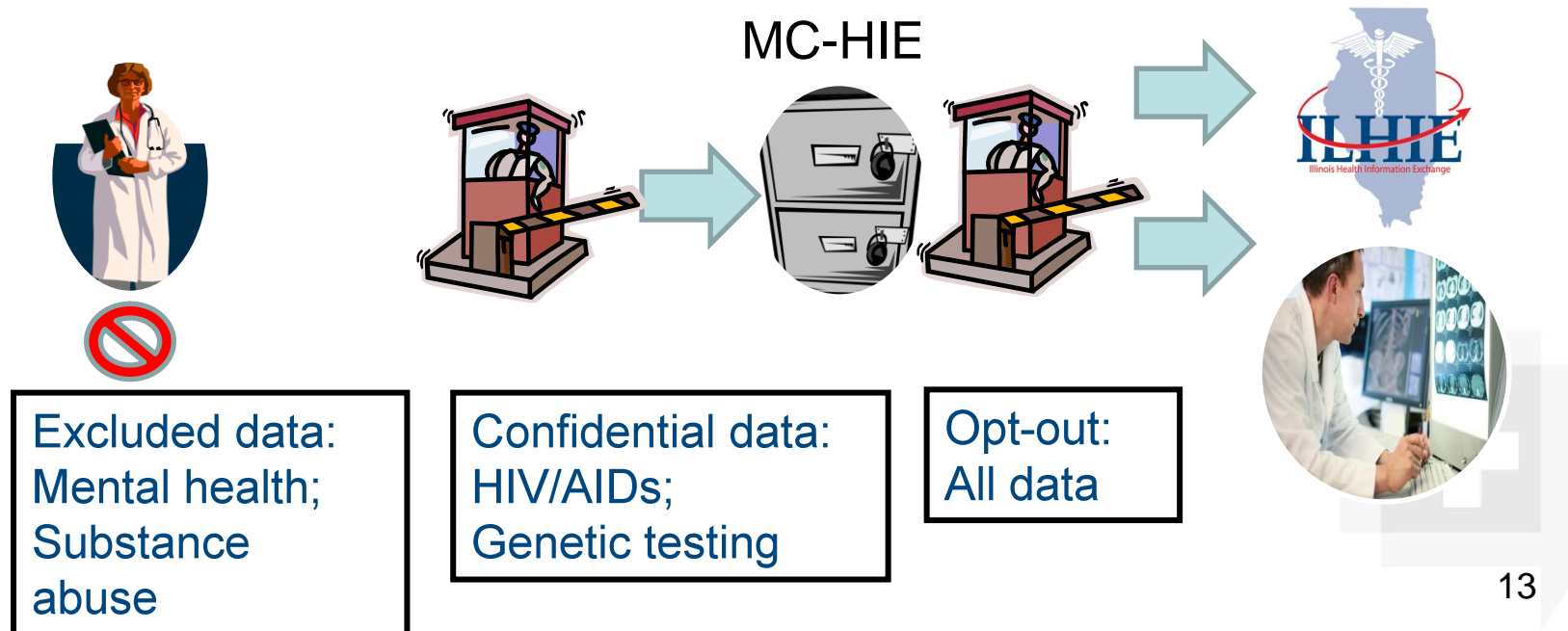
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Major Barrier to HIE: MHDDCA (1)

- Illinois Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110/)
 - Vintage
 - Created prior to federal HIPAA (1996-2002)
 - Created prior to multi-party info sharing for care coordination
 - Created prior to electronic record exchange
 - Requires patient consent for disclosure of “record”, with few exceptions
 - “**Blanket consent**” to the disclosure of unspecified information shall not be valid. **Advance consent** may be valid only if the nature of the information to be disclosed is specified in detail and the duration of the consent is indicated.” (Sec. 5c)
 - “**Blanket consent**” and “**advance consent**” are undefined

Major Barrier to HIE: MHDDCA (2)

- For HIE which collects and stores patient data for later release to future data recipients, it is difficult, if not impossible, at time of data's creation to obtain qualifying patient consent
- MetroChicago HIE policy: HIE participants not to submit patient mental health records



Major Barrier to HIE: MHDDCA (3)

- MetroChicago HIE policy: participants not to submit patient mental health records
 - Implementation: difficult to sequester just mental health data; entire patient record excluded
 - Consequence: mental health patients denied benefits of HIE, even if they should desire HIE
 - Implication: impacts patient data available through ILHIE
 - Implication: impacts State's Medicaid program



Solution: HB1017 amends MHDDCA

- New Approach. HB1017 fundamentally proposes a different set of patient consent rules to apply to the electronic exchange of a medical record through a health information exchange. (new “HIE exception”)
- Patient Opt-Out. The bill sets out the policy principle that patients are to enjoy an “opt-out” choice regarding the disclosure of their medical record by a health information exchange. (new Sec. 9.6)
- Delegation of Rulemaking. As the health information exchange environment is dynamic and evolving, the bill delegates the preparation of implementing rules to the ILHIE Authority, an administrative agency of the State created in 2010. (new Sec. 9.6)
- Continuation of existing rules. Existing MHDDCA continues to apply to existing (non-HIE) methods of disclosure (e.g. facsimile; mail)

HB1017 endorsing organizations (10)

- Community Behavioral Healthcare Association of Illinois (CBHA)
- Illinois Academy of Family Physicians (IAFP)
- Illinois Alcoholism and Drug Dependence Association (IADDA)
- Illinois Association of Rehabilitation Facilities (IARF)
- Illinois College of Emergency Physicians (ICEP)
- Illinois Hospital Association (IHA)
- Illinois Primary Health Care Association (IPHCA)
- Illinois Psychiatric Society (IPS)
- Illinois State Medical Society (ISMS)
- National Association of Social Workers (NASW) – Illinois Chapter



HB1017 Legislative Sponsors (6)

- Rep. Sara Feigenholtz
 - Rep. Al Riley
 - Rep. David R. Leitch
 - Rep. Elaine Nekritz
 - Rep. Elgie R. Sims, Jr.
 - Rep. Camille Y. Lilly
-
- a companion Senate bill (SB1186) has been sponsored by Sen. Heather Steans



"HIE Exception" (new Sec. 9.5)

- "Sec. 9.5. Use and disclosure of information to an HIE. ... An HIE,... business associate, or covered entity may,
 - **without a recipient's consent,**
 - use or disclose information
 - » from a recipient's record in connection with an HIE, including disclosure
 - » to the Illinois Health Information Exchange Authority, an HIE, or the business associate of either.
- An HIE and its business associate may,
 - without a recipient's consent,
 - use or disclose and **re-disclose** such information
 - for HIE purposes or for such other purposes as are specifically allowed under this Act."

Patient “Opt-out” challenges

- Patient to be offered “opt-out” after “meaningful disclosure”
- Opposition to initial HB1017 bill sec. 9.6:
 - (1) desire for maintaining patient “**opt-in**” rather than “opt-out”
 - (2) desire for greater detail set in statute regarding the nature and content of the “**meaningful disclosure**” to be provided to patients prior to “opt-out”
 - (3) desire for setting in statute the right of patients to enjoy a “**granular**” opportunity to opt-out of further disclosure of discrete elements of the patient’s record (e.g., types of PHI), or with respect to particular providers (e.g., data senders and/or data receivers), or particular healthcare encounters
- Bill amended prior to unanimous adoption by House Judiciary Committee (15-0) [Feb. 27], and again on House floor prior to unanimous adoption by House (115-0) [March 8]

Patient “Opt-out”: patient choice

- Sec. 9.6. HIE opt-out. The ... Authority shall,
 - through appropriate **rules**, standards, or contractual obligations ...,
 - **provide each recipient** whose record is accessible through the health information exchange
 - the **reasonable opportunity to expressly decline the further disclosure** of the record by the health information exchange to third parties, except to the extent permitted by law such as for purposes of public health reporting.

[amendments:]

- ❖ *These rules, standards, or contractual obligations shall permit a recipient to **revoke** a prior decision to opt-out or a decision not to opt-out.*
- ❖ *These rules, standards, or contractual obligations shall provide for **written notice** of a recipient's right to opt-out which directs the recipient to a health information exchange **website** containing*
 - ❖ *(i) an **explanation of the purposes** of the health information exchange;*
 - ❖ *and (ii) audio, visual, and written instructions on **how to opt out** of participation in whole or in part to the extent possible.*
- ❖ *These rules, standards, or contractual obligations shall be **reviewed annually** and updated as the technical options develop.*

Patient “Opt-out”: disclosure

- (Sec. 9.6) The recipient shall be provided **meaningful disclosure** regarding the health information exchange,
 - and the recipient's decision whether to opt-out should be obtained **without undue inducement** or any element of force, fraud, deceit, duress, or other form of constraint or coercion.
 - To the extent that HIPAA, as specified in 45 CFR 164.508(b)(4), prohibits a covered entity from conditioning the provision of its services upon an individual's provision of an authorization, an HIE participant shall not condition the provision of its services upon a recipient's decision to opt-out of further disclosure of the record by an HIE to third parties.
- ❖ *The ... Authority shall,*
 - *through appropriate **rules**, standards, or contractual obligations ...,*
 - **give consideration to**
 - **the format and content of the meaningful disclosure**
 - **and the availability to recipients of information regarding**
 - *an HIE*
 - *and the rights of recipients under this Section to expressly decline the further disclosure of the record by an HIE to third parties.*

Patient “Opt-out”: granular choice

- ❖ *The ... Authority shall also give **annual consideration***
- ❖ *to **enable a recipient to expressly decline** the further disclosure by an HIE to third parties of **selected portions of the recipient's record** while permitting disclosure of the recipient's remaining patient health information.*
 - ❖ *In establishing **rules**, standards, or contractual obligations ... to give effect to recipient disclosure preferences, the ... Authority in its discretion may consider*
 - ❖ *the extent to which **relevant health information technologies** reasonably available to therapists and HIEs in this State*
 - ❖ ***reasonably enable the effective segmentation of specific information** within a recipient's electronic medical record*
 - ❖ *and reasonably enable the **effective exclusion** of specific information from disclosure by an HIE to third parties,*
 - ❖ *as well as the availability of **sufficient authoritative clinical guidance** to enable the **practical application** of such technologies to effect recipient disclosure preferences.*

ILHIE Authority Rulemaking

- HB1017 delegates responsibility for more detailed implementation of patient “opt-out” rules to the ILHIE Authority
- Pursuant to ILHIE Act (20 ILCS 3860/):
 - An administrative agency of the State
 - Accountable to Governor, General Assembly and judicial process
 - Charged with protection of patient privacy and security through the establishment of standards and requirements for the use of health information and the requirements for participation in the ILHIE
 - Must follow formal rulemaking process, including public notices and opportunity for public comment. Prior to publication of a proposed rule, the ILHIE Authority will seek input from organizations that could potentially be impacted.

- Equip for Equality
- American Civil Liberties Union – IL chapter (ACLU)
- Mental Health America of Illinois
- Illinois State Bar Association (ISBA)



RHIO Concern: Definition of “HIE”

- An "HIE" is defined in HB1017 as
 - the ILHIE ("a health information exchange established pursuant to the Illinois Health Information Exchange and Technology Act")
 - "or (ii) another health information exchange or health information organization certified or approved by the Illinois Health Information Exchange Authority".
- The intent was to allow the RHIOs "certified or approved" by the ILHIE Authority (and thus a defined "HIE") to be able to benefit from the "HIE exception" in MHDDCA section 9.5 to obtaining patient consent for exchanging mental health records.
- An “HIE” is not currently defined under federal law or under any other Illinois State law. The definition of “HIE” in HB1017 is limited to the MHDDCA, and is not intended to impose a general registration requirement upon RHIOs; only RHIOs that would wish to have the benefit of the “HIE Exception” proposed in HB1017 would eventually seek to be “certified or approved” by the Authority.

Principal RHIO Concerns

1. Agency rulemaking is lengthy (6 – 12 mos.); rather than require lengthy ILHIE Authority involvement, can HB1017 give “HIE” status now to identified qualifying entities?
2. Agency rulemaking is subjective; can HB1017 specify the criteria the ILHIE Authority must apply in determining if an HIE is “approved”?
3. The business details of RHIO engagement with the ILHIE (e.g. fees) are unresolved.



- Support Illinois Senate consideration of HB1017(April – May): address concerns
- ILHIE Authority rulemaking (assuming passage of HB1017):
 - Approval or certification of “HIEs”
 - Form and content of patient “opt-out” rights
- Ancillary legislation (post-HB1017):
 - HIV/AIDs; Genetic Testing; Substance Abuse
 - Emergency Treatment (“break-the-glass”)



ILHIE AUTHORITY BOARD MEETING

April 8, 2012
Chicago, IL
2:30 PM



- Welcome
- Roll Call
- Approval of Agenda
- Approval of January Meeting Minutes



ILHIE CHAIR REPORT

Dr. Cheryl Whitaker



ILHIE EXECUTIVE DIRECTOR UPDATE

Raul Recarey
Laura Zaremba



- Introduction to new ILHIEA Staff
 - Sonia Bhagwakar – Legal Counsel
 - Pamela Parker – Project Manager
 - Aneta Adugalska – Administrative Office Manager
 - Frank Kisner – Business & Client Support



Current Onboarding Pipeline



Organization Name	Hospitals	Providers	FQHC	Small Practices	Other	DSAs
HHO	N/A	348	12	5	0	Expected 7-10 days
ICAHN	19	1379	0	0	0	9 Signed
SIHIE	2	110	3	22		Signed
CIHIE	N/A	410	0	0	6 (LTC)	Signed
Public Health Node/IDPH	2	(TBD)				
Medical Home Network	4	550				
Enterprise Direct						
LabCorp/Quest						
HFS						
DHS						
PDMP						
Northwestern Memorial	1	(TBD)				
SSM						
HealtheWay						
Direct: Sign ups – 1,799 Active users - 792	42	137	18	61	21	
Totals	70	2,934	33	88	27	

ILHIE Network Implementation Status

Organization	Step 1 Demo/Propose	Step 2 Signed	Step 3 Assess/Plan	Step 4 Build	Step 5 Test	Step 6 Production	Step 7 Maintenance	Comments
HHO/Erie Family Healthcare	n/a	Open				11/18/13		DSA Expected 7-10 days
HHO/Heartland Out Reach	n/a	Open				11/18/13		Under HHO legal review
HHO/Howard Brown Health	n/a	Open				11/18/13		DSA Expected 7-10 days
HHO/PCC Wellness	n/a	Open				11/18/13		DSA Expected 7-10 days
ICAHN/Gibson Area	n/a	Completed				11/18/13		DSA Signed 3/4/13
ICAHN/Washington County Hospital	n/a	In Progress				11/18/13		Sent 3/21/13
SIH/HIE	n/a	Completed	In progress			11/18/13		DSA ready for execution
CIHIE		In Progress	In progress			12/31/13		DSA in legal review
NorthShore	Proposed							
Near North Health	Complete	Completed	Completed	In progress	In progress			
Medical Home Network	Pending							
University of Chicago	Pending							
Stroger Hospital	Pending							
University of Illinois Medical Center	Pending							
HFS	n/a	Completed (IGA)						
IDPH(IDFPR)	n/a	Completed (IGA)						
DHS	n/a	Completed (IGA)						

- Enrollment has exceeded **1,800 mailboxes**
 - Utilization increasing
- New Groups Engaged
 - Dentists, Orthodontists, and Oral Surgeons
 - Accounting for about 50% of recent sign-ups
 - Featured articles in Illinois and Chicago Dental Society publications
 - State Agencies
 - Dept. of Public Health – both internal and local health dept. exchange
 - Dept. on Aging – recently signed up, use cases undetermined
 - Healthcare and Family Services – working with agency to enroll Care Coordination Entity participants and other Medicaid providers

- Enterprise Direct
 - ILHIE to work with orgs. to integrate Direct into EHRs
 - Both as stand-alone service and part of bi-directional onboarding
- HISP to HISP Connectivity/Interoperability
 - Federation agreement signed by all members of DirectTrust.org (includes most of major Direct “players”)
 - Later in April → HISPs to issue digital certificates under new, unified “Trust Bundle”
 - Will result in automatic connectivity between these HISPs on a nationwide level (as simple as sending from a Gmail address to a Yahoo address!)

Medicare & Medicaid EHR Incentive Programs Participation in Illinois*

- Registered Medicaid EPs – 4,141
- Registered Medicare EPs – 11,916
- Registered Hospitals - 167

- EP Payments - \$185,571,522
- Hospital Payments - \$330,253,558
- Total Illinois Payments - \$515,825,080

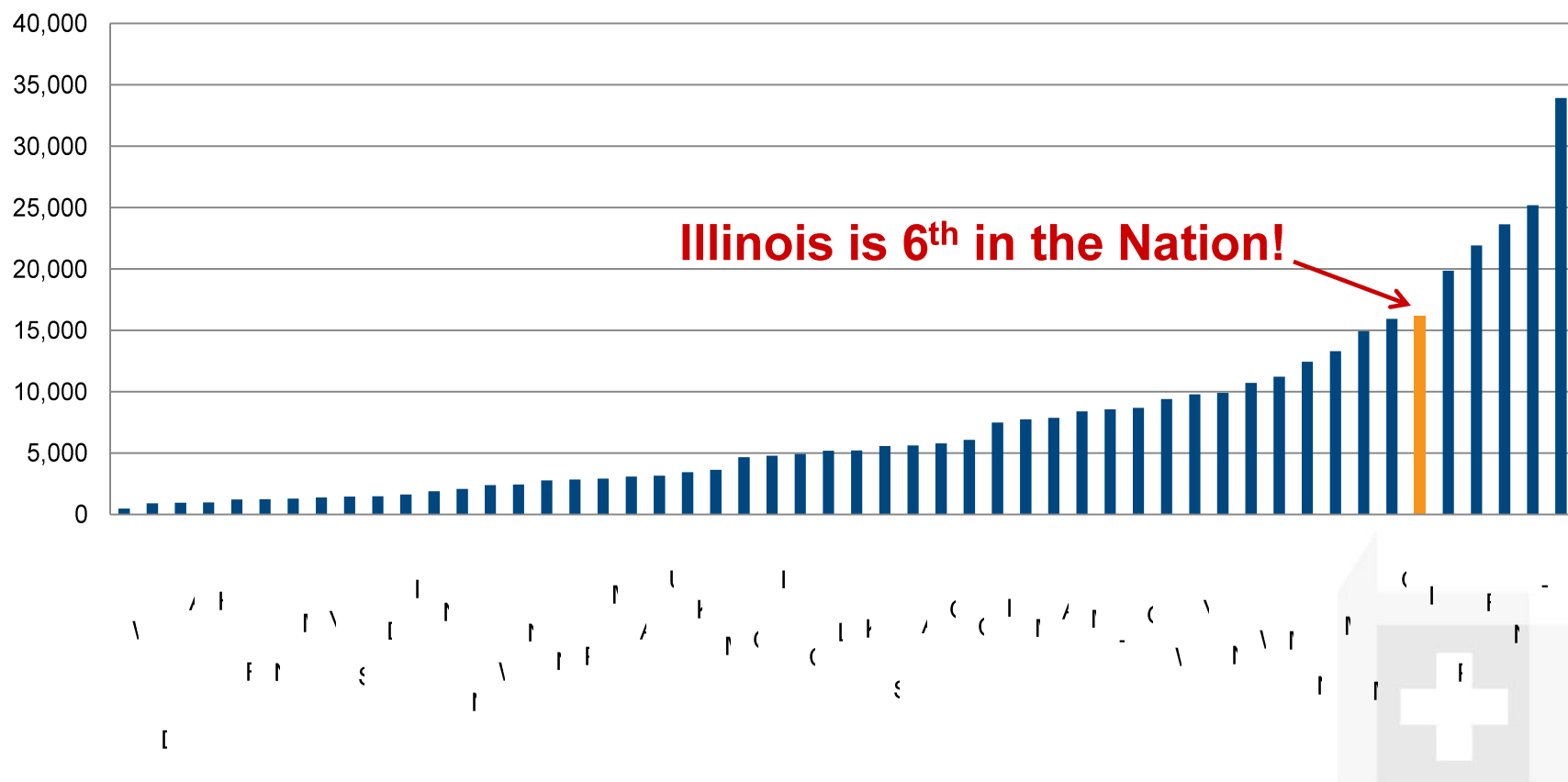
*Registration Detail: Centers for Medicare & Medicaid Services, *EHR Program Registrations by State and Program Type* as of February 28, 2013.

*Payment Detail: Centers for Medicare & Medicaid Services, *Combined Medicare and Medicaid Payments by States* through February 28, 2013.

Illinois EHR Incentive Program Update



Incentive Programs Registration by State

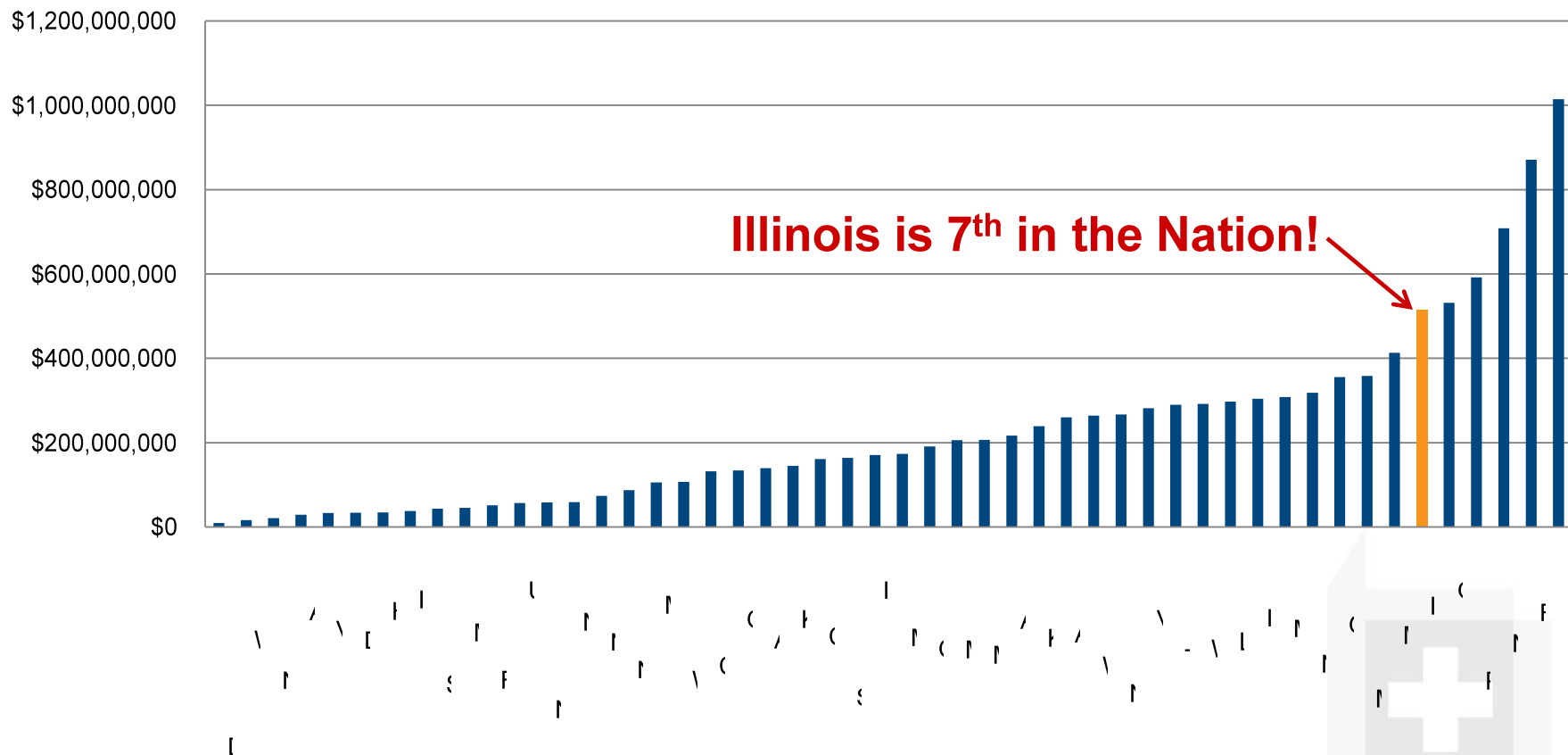


Centers for Medicare & Medicaid Services, *EHR Program Registrations by State and Program Type* as of February 28, 2013. Does not include territories registered for the Medicare and Medicaid EHR Incentive Programs.

Illinois EHR Incentive Program Update



EHR Incentive Payments by State



Centers for Medicare & Medicaid Services, *Combined Medicare & Medicaid Payments by State* January 2011 – February 28, 2013. Does not include territories receiving incentive payments.

- HB1017 amends the Illinois Mental Health Confidentiality Act.
 - It provides for the use of health information exchange (HIE) for the exchange of patient mental health records, while granting patients individual choice (opt-out) regarding the disclosure by the HIE of such records.
- HB1017/ SB1186 sponsored by Rep. Sara Feigenholtz and Sen. Heather Steans
 - Five additional House co-sponsors have joined
 - Endorsed by 10 stakeholder healthcare organizations
- Passed by House on March 8 unanimously (115-0)
- Under Senate Committee consideration in mid-April

- Illinois one of 16 states awarded federal funding for Innovation Model Design
- Statewide effort to design a multi-payer service delivery and payment model to enhance quality, improve health status and reduce costs
- Strong emphasis on health information technology and continued development of the ILHIE to support improvement in health care delivery
- Illinois plan to be submitted in October for 3-year Model testing phase



Budget & Finance Committee Report



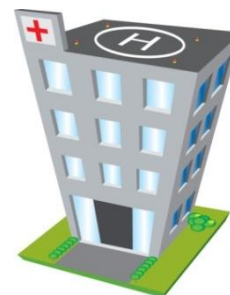
OHIT CFO Report on recent financial activity

- Primary sources of expenditures:
 - OHIT personnel and fringe benefits
 - OHIT payments to InterSystems Corporation (technology partner)
 - Up to \$2M allocated to on-board entities and provide HIE services to rural and underserved areas across Illinois
 - Up to \$3.3M allocated to financially remunerate the ILHIE Authority for helping to establish HIE connectivity



ILHIE Authority on-boarding activities

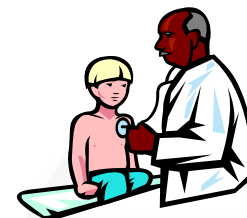
- Up to \$2M allocated to on-board entities and provide HIE services to rural and underserved areas across Illinois
 - 21 hospitals
 - 15 FQHC
 - 27 small practices
 - 6 LTC facilities
 - Over 2,000 providers



Hospitals



Physicians



Clinics

Financial remuneration to the ILHIE Authority

- Up to \$3.3M allocated to financially remunerate the ILHIE Authority for establishing HIE connectivity
 - ILHIE Authority will receive financial remuneration payments for HIE connectivity milestones achieved with different types of health care entities

**Bi-directional
exchange**

**Enterprise
Direct**

**PHN
Connectivity**

**RHIO
Connectivity**

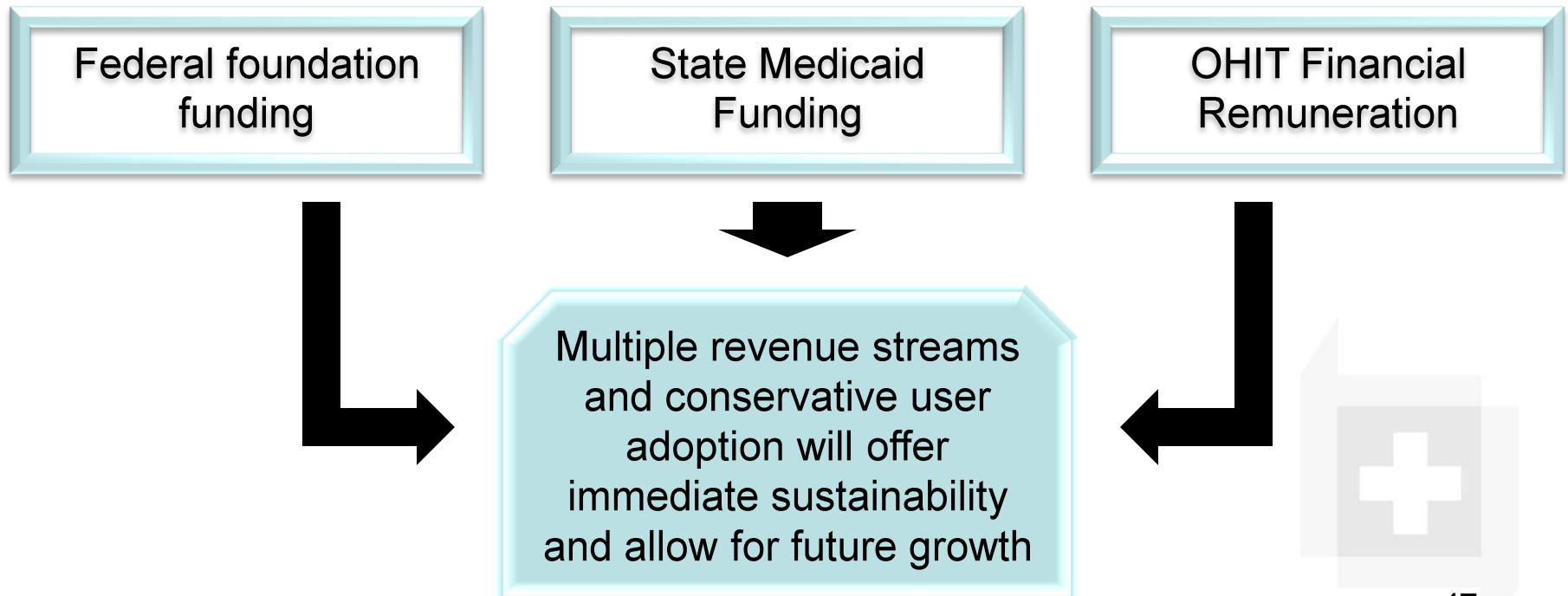


Report on Refined ILHIE Authority Business Model



Refined ILHIE Authority business model

ILHIE Authority will have multiple projected revenue streams



ILHIE AUTHORITY BOARD



Refined ILHIE Authority business model

	State Fiscal Year 7/1/12-6/30/13		State Fiscal Year 7/1/13-6/30/14		State Fiscal Year 7/1/14-6/30/15		Cumulative Totals
ILHIEA Revenue							
Public Funding							
Foundational Federal Funding	\$	311,901			\$	-	\$ 311,901
State Medicaid Funding	\$	-	\$	2,700,000	\$	2,700,000	\$ 5,400,000
Total Public Funding	\$	311,901	\$	2,700,000	\$	2,700,000	\$ 5,711,901
Other Revenue							
OHIT Remuneration	\$	606,250	\$	2,740,066	\$	-	\$ 3,346,316
User Fees from ILHIE Services	\$	-	\$	740,375	\$	2,440,450	\$ 3,180,825
Total Other Revenue	\$	606,250	\$	3,480,441	\$	2,440,450	\$ 6,527,141
Prior Year Net Operational Surplus	\$	-	\$	606,250	\$	1,639,467	\$ 2,245,717
Total Revenues	\$	918,151	\$	6,786,691	\$	6,779,917	\$ 14,484,759
ILHIEA Operating Expenditures							
Salaries and other expenditures	\$	311,901	\$	2,490,124	\$	2,421,168	\$ 5,223,193
Technical Services Costs	\$	-	\$	2,657,100	\$	3,776,000	\$ 6,433,100
Total Operating Expenditures	\$	311,901	\$	5,147,224	\$	6,197,168	\$ 11,656,293
Net Operating Surplus / (Deficit)	\$	606,250	\$	1,639,467	\$	582,749	\$ 2,828,466

Refined ILHIE Authority business model

- Includes the revised and Board approved ILHIE staffing plan
- Includes projected annual revenue from IL Medicaid
- Includes anticipated OHIT financial remuneration as other revenue
- Further refined primary revenue categories and related pricing tiers



ILHIE Business
Model



Governance & Nominating Committee Report



ILHIE Advisory Committee Update

- Lurie Children's
- NorthShore



ILHIE Regional HIE Workgroup Report



Regional HIE Update

- MetroChicago HIE
- LincolnLand HIE/IL Health Exchange Partners
- Central IL HIE
- HIE of Southern IL
- Northern IL HIE



Regional Extension Center Update

- ILHITREC
- CHITREC



Public Comment





ILHIE AUTHORITY BOARD

THANK YOU!
SEE YOU MAY 15TH IN SPRINGFIELD!

